

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

# SENATE BILL 1099

## AN ACT

AMENDING SECTION 28-3006, ARIZONA REVISED STATUTES; REPEALING TITLE 36, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 3; RELATING TO THE REVISED UNIFORM ANATOMICAL GIFT ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-3006, Arizona Revised Statutes, is amended to  
3 read:

4 28-3006. Driver license and nonoperating identification license  
5 applications: organ donation preference:  
6 reimbursement

7 A. The director shall establish procedures:

8 1. To allow a person applying for a driver license, permit or  
9 nonoperating identification license pursuant to this chapter to indicate  
10 during the application process the person's preference to be an organ donor.

11 2. For the release of ~~name and address~~ information contained in the  
12 driving record of a person who indicates a preference to be an organ donor if  
13 the release is for the purpose of being registered in the ~~anatomical gift~~  
14 **DONOR** registry maintained pursuant to section ~~36-842.01~~ 36-859.

15 B. The department shall not implement this section unless the organ  
16 procurement organization that is located in this state and that meets the  
17 requirements of section 371 of the public health service act (58 Stat. 682;  
18 42 United States Code section 273) provides adequate funding to the  
19 department to cover the costs the department will incur in implementing this  
20 section.

21 Sec. 2. Repeal

22 Title 36, chapter 7, article 3, Arizona Revised Statutes, is repealed.

23 Sec. 3. Title 36, chapter 7, Arizona Revised Statutes, is amended by  
24 adding a new article 3, to read:

25 ARTICLE 3. REVISED UNIFORM ANATOMICAL GIFT ACT

26 36-841. Definitions

27 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

28 1. "ADULT" MEANS AN INDIVIDUAL WHO IS AT LEAST EIGHTEEN YEARS OF AGE.

29 2. "AGENT" MEANS AN INDIVIDUAL WHO IS EITHER:

30 (a) AUTHORIZED TO MAKE HEALTH CARE DECISIONS ON THE PRINCIPAL'S BEHALF  
31 PURSUANT TO A HEALTH CARE POWER OF ATTORNEY.

32 (b) EXPRESSLY AUTHORIZED TO MAKE AN ANATOMICAL GIFT ON THE PRINCIPAL'S  
33 BEHALF PURSUANT TO ANY OTHER RECORD SIGNED BY THE PRINCIPAL.

34 3. "ANATOMICAL GIFT" MEANS A DONATION OF ALL OR PART OF A HUMAN BODY  
35 TO TAKE EFFECT AFTER THE DONOR'S DEATH FOR THE PURPOSE OF TRANSPLANTATION,  
36 THERAPY, RESEARCH OR EDUCATION.

37 4. "DECEDENT" MEANS A DECEASED INDIVIDUAL WHOSE BODY OR PART IS OR MAY  
38 BE THE SOURCE OF AN ANATOMICAL GIFT. DECEDENT INCLUDES A STILLBORN INFANT  
39 AND, SUBJECT TO RESTRICTIONS IMPOSED BY ANY OTHER LAW, A FETUS.

40 5. "DISINTERESTED WITNESS" MEANS A WITNESS OTHER THAN THE SPOUSE,  
41 CHILD, PARENT, SIBLING, GRANDCHILD, GRANDPARENT OR GUARDIAN OF THE INDIVIDUAL  
42 WHO MAKES, AMENDS, REVOKES OR REFUSES TO MAKE AN ANATOMICAL GIFT, OR ANOTHER  
43 ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR THE INDIVIDUAL.  
44 DISINTERESTED WITNESS DOES NOT INCLUDE A PERSON TO WHICH AN ANATOMICAL GIFT  
45 COULD PASS PURSUANT TO SECTION 36-850.

1           6. "DOCUMENT OF GIFT" MEANS A DONOR CARD OR OTHER RECORD USED TO MAKE  
2 AN ANATOMICAL GIFT. DOCUMENT OF GIFT INCLUDES A STATEMENT OR SYMBOL ON A  
3 DRIVER LICENSE, IDENTIFICATION CARD OR DONOR REGISTRY.

4           7. "DONOR" MEANS AN INDIVIDUAL WHOSE BODY OR PART IS THE SUBJECT OF AN  
5 ANATOMICAL GIFT.

6           8. "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS OF  
7 ANATOMICAL GIFTS.

8           9. "DRIVER LICENSE" MEANS A LICENSE OR PERMIT ISSUED PURSUANT TO TITLE  
9 28 TO OPERATE A VEHICLE, WHETHER OR NOT CONDITIONS ARE ATTACHED TO THE  
10 LICENSE OR PERMIT.

11          10. "EYE BANK" MEANS A PERSON THAT IS LICENSED OR REGULATED UNDER  
12 FEDERAL OR STATE LAW OR IS ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING  
13 AGENCY TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE OR  
14 DISTRIBUTION OF HUMAN EYES OR PORTIONS OF HUMAN EYES.

15          11. "GUARDIAN" MEANS A PERSON WHO IS APPOINTED BY A COURT TO MAKE  
16 DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH OR WELFARE OF AN  
17 INDIVIDUAL. GUARDIAN DOES NOT INCLUDE A GUARDIAN AD LITEM.

18          12. "HOSPITAL" MEANS A FACILITY THAT IS LICENSED AS A HOSPITAL UNDER  
19 THE LAWS OF ANY STATE OR THAT IS OPERATED AS A HOSPITAL BY THE UNITED STATES,  
20 A STATE OR A SUBDIVISION OF A STATE.

21          13. "IDENTIFICATION CARD" MEANS AN IDENTIFICATION CARD ISSUED BY THE  
22 MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF TRANSPORTATION.

23          14. "KNOW" MEANS TO HAVE ACTUAL KNOWLEDGE.

24          15. "MINOR" MEANS AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE.

25          16. "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON DESIGNATED BY THE  
26 SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS AN  
27 ORGAN PROCUREMENT ORGANIZATION.

28          17. "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT BEEN  
29 TERMINATED.

30          18. "PART" MEANS AN ORGAN, EYE OR TISSUE OF A HUMAN BEING. PART DOES  
31 NOT INCLUDE THE WHOLE BODY.

32          19. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE,  
33 TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE,  
34 PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR  
35 INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

36          20. "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED AS A PHYSICIAN PURSUANT TO  
37 TITLE 32, CHAPTER 13 OR 17.

38          21. "PRINCIPAL" MEANS A PERSON WHO IS THE SUBJECT OF A HEALTH CARE  
39 POWER OF ATTORNEY.

40          22. "PROCUREMENT ORGANIZATION" MEANS:

41           (a) AN ORGAN PROCUREMENT ORGANIZATION.

42           (b) A TISSUE BANK.

43           (c) AN EYE BANK.

1 (d) A STORAGE FACILITY THAT IS LICENSED, ACCREDITED OR APPROVED UNDER  
2 FEDERAL LAW OR THE LAWS OF ANY STATE TO ENGAGE IN THE RECOVERY, SCREENING,  
3 TESTING, PROCESSING, STORAGE OR DISTRIBUTION OF HUMAN BODIES OR PARTS.

4 23. "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD OR NEAR DEATH  
5 AND WHO HAS BEEN DETERMINED BY A PROCUREMENT ORGANIZATION TO HAVE A PART THAT  
6 COULD BE MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH OR  
7 EDUCATION. PROSPECTIVE DONOR DOES NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A  
8 REFUSAL.

9 24. "REASONABLY AVAILABLE" MEANS ABLE TO BE CONTACTED BY A PROCUREMENT  
10 ORGANIZATION WITHOUT UNDUE EFFORT AND WILLING AND ABLE TO ACT IN A TIMELY  
11 MANNER CONSISTENT WITH EXISTING MEDICAL CRITERIA NECESSARY FOR THE MAKING OF  
12 AN ANATOMICAL GIFT.

13 25. "RECIPIENT" MEANS AN INDIVIDUAL INTO WHOSE BODY A DECEDENT'S PART  
14 HAS BEEN OR IS INTENDED TO BE TRANSPLANTED.

15 26. "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM  
16 OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN  
17 PERCEIVABLE FORM.

18 27. "REFUSAL" MEANS A RECORD CREATED PURSUANT TO SECTION 36-846 THAT  
19 EXPRESSLY STATES AN INTENT TO BAR OTHER PERSONS FROM MAKING AN ANATOMICAL  
20 GIFT OF AN INDIVIDUAL'S BODY OR PART.

21 28. "SIGN", WITH RESPECT TO THE PRESENT INTENT TO AUTHENTICATE OR ADOPT  
22 A RECORD, MEANS EITHER:

23 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL.

24 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC  
25 SYMBOL, SOUND OR PROCESS.

26 29. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF  
27 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS OR ANY TERRITORY OR  
28 INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

29 30. "TECHNICIAN" MEANS AN INDIVIDUAL WHO IS DETERMINED TO BE QUALIFIED  
30 TO REMOVE OR PROCESS PARTS BY AN APPROPRIATE ORGANIZATION THAT IS LICENSED OR  
31 REGULATED UNDER FEDERAL OR STATE LAW OR IS ACCREDITED BY A NATIONALLY  
32 RECOGNIZED ACCREDITING AGENCY. TECHNICIAN INCLUDES AN ENUCLEATOR.

33 31. "TISSUE" MEANS ALL OR A PORTION OF THE HUMAN BODY OTHER THAN AN  
34 ORGAN OR AN EYE UNLESS THE ORGAN OR EYE IS DONATED FOR THE PURPOSE OF  
35 RESEARCH OR EDUCATION. TISSUE DOES NOT INCLUDE BLOOD UNLESS THE BLOOD IS  
36 DONATED FOR THE PURPOSE OF RESEARCH OR EDUCATION.

37 32. "TISSUE BANK" MEANS A PERSON THAT IS LICENSED OR REGULATED UNDER  
38 FEDERAL OR STATE LAW OR IS ACCREDITED AS A TISSUE BANK BY A NATIONALLY  
39 RECOGNIZED ACCREDITING AGENCY TO ENGAGE IN THE RECOVERY, SCREENING, TESTING,  
40 PROCESSING, STORAGE OR DISTRIBUTION OF TISSUE.

41 33. "TRANSPLANT HOSPITAL" MEANS A HOSPITAL THAT FURNISHES ORGAN  
42 TRANSPLANTS AND OTHER MEDICAL AND SURGICAL SPECIALTY SERVICES REQUIRED FOR  
43 THE CARE OF TRANSPLANT PATIENTS.

1           36-842. Applicability

2           THIS ARTICLE APPLIES TO AN ANATOMICAL GIFT OR AMENDMENT TO, REVOCATION  
3           OF OR REFUSAL TO MAKE AN ANATOMICAL GIFT, WHENEVER MADE.

4           36-843. Who may make an anatomical gift before donor's death

5           SUBJECT TO THE REQUIREMENTS OF SECTION 36-847, AN ANATOMICAL GIFT MAY  
6           BE MADE DURING THE LIFE OF THE DONOR FOR THE PURPOSE OF TRANSPLANTATION,  
7           THERAPY, RESEARCH OR EDUCATION IN THE MANNER PROVIDED IN SECTION 36-844 BY:

8           1. THE DONOR, IF THE DONOR IS AN ADULT OR IS A MINOR WHO IS EITHER:

9           (a) EMANCIPATED.

10           (b) AUTHORIZED UNDER STATE LAW TO APPLY FOR A DRIVER LICENSE BECAUSE  
11           THE DONOR IS AT LEAST THE YOUNGEST AGE AT WHICH AN INDIVIDUAL MAY APPLY FOR  
12           ANY TYPE OF DRIVER LICENSE.

13           2. AN AGENT OF THE DONOR, UNLESS THE POWER OF ATTORNEY FOR HEALTH CARE  
14           OR OTHER RECORD PROHIBITS THE AGENT FROM MAKING AN ANATOMICAL GIFT.

15           3. IF THE DONOR IS AN UNEMANCIPATED MINOR, A PARENT OF THE DONOR.

16           4. THE DONOR'S GUARDIAN.

17           36-844. Manner of making anatomical gift before donor's death

18           A. A DONOR MAY MAKE AN ANATOMICAL GIFT:

19           1. BY REGISTERING TO BE A DONOR ON THE DONOR REGISTRY ESTABLISHED BY  
20           SECTION 36-859.

21           2. IN A WILL.

22           3. DURING A TERMINAL ILLNESS OR INJURY OF THE DONOR BY ANY FORM OF  
23           COMMUNICATION THAT IS ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM  
24           IS A DISINTERESTED WITNESS.

25           4. AS PROVIDED IN SUBSECTION B OF THIS SECTION.

26           B. A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT  
27           PURSUANT TO SECTION 36-843 MAY MAKE A GIFT BY A DONOR CARD OR OTHER RECORD  
28           SIGNED BY THE DONOR OR OTHER PERSON MAKING THE GIFT OR BY AUTHORIZING THAT A  
29           STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE AN ANATOMICAL GIFT BE  
30           INCLUDED ON A DONOR REGISTRY. IF THE DONOR OR OTHER PERSON IS PHYSICALLY  
31           UNABLE TO SIGN A RECORD, THE RECORD MAY BE SIGNED BY ANOTHER INDIVIDUAL AT  
32           THE DIRECTION OF THE DONOR OR THE OTHER PERSON AND MUST:

33           1. BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A  
34           DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR THE  
35           OTHER PERSON.

36           2. STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN  
37           PARAGRAPH 1 OF THIS SUBSECTION.

38           C. REVOCATION, SUSPENSION, EXPIRATION OR CANCELLATION OF A DRIVER  
39           LICENSE OR AN IDENTIFICATION CARD ON WHICH AN ANATOMICAL GIFT IS INDICATED  
40           DOES NOT INVALIDATE THE GIFT.

41           D. AN ANATOMICAL GIFT MADE BY WILL TAKES EFFECT ON THE DONOR'S DEATH  
42           WHETHER OR NOT THE WILL IS PROBATED. INVALIDATION OF THE WILL AFTER THE  
43           DONOR'S DEATH DOES NOT INVALIDATE THE GIFT.

1       36-845. Amending or revoking anatomical gift before donor's  
2               death

3       A. SUBJECT TO THE REQUIREMENTS OF SECTION 36-847, A DONOR OR OTHER  
4       PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 MAY  
5       AMEND OR REVOKE AN ANATOMICAL GIFT BY:

6       1. A RECORD SIGNED BY EITHER:

7       (a) THE DONOR.

8       (b) THE OTHER PERSON.

9       (c) SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION,  
10       ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE DONOR OR THE OTHER PERSON  
11       IF THE DONOR OR OTHER PERSON IS PHYSICALLY UNABLE TO SIGN.

12       2. A LATER-EXECUTED DOCUMENT OF GIFT THAT AMENDS OR REVOKES A PREVIOUS  
13       ANATOMICAL GIFT OR PORTION OF AN ANATOMICAL GIFT, EITHER EXPRESSLY OR BY  
14       INCONSISTENCY.

15       B. A RECORD SIGNED PURSUANT TO SUBSECTION A, PARAGRAPH 1, SUBDIVISION  
16       (c) MUST:

17       1. BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A  
18       DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR THE  
19       OTHER PERSON.

20       2. STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PRESCRIBED IN  
21       PARAGRAPH 1 OF THIS SUBSECTION.

22       C. SUBJECT TO THE REQUIREMENTS OF SECTION 36-847, A DONOR OR OTHER  
23       PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 MAY  
24       REVOKE AN ANATOMICAL GIFT BY THE DESTRUCTION OR CANCELLATION OF THE DOCUMENT  
25       OF GIFT, OR THE PORTION OF THE DOCUMENT OF GIFT USED TO MAKE THE GIFT, WITH  
26       THE INTENT TO REVOKE THE GIFT.

27       D. A DONOR MAY AMEND OR REVOKE AN ANATOMICAL GIFT THAT WAS NOT MADE IN  
28       A WILL BY ANY FORM OF COMMUNICATION DURING A TERMINAL ILLNESS OR INJURY THAT  
29       IS ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED  
30       WITNESS.

31       E. A DONOR WHO MAKES AN ANATOMICAL GIFT IN A WILL MAY AMEND OR REVOKE  
32       THE GIFT IN THE MANNER PROVIDED FOR AMENDMENT OR REVOCATION OF WILLS OR AS  
33       PRESCRIBED IN SUBSECTION A OF THIS SECTION.

34       36-846. Refusal to make anatomical gift; effect of refusal

35       A. AN INDIVIDUAL MAY REFUSE TO MAKE AN ANATOMICAL GIFT OF THE  
36       INDIVIDUAL'S BODY OR PART BY:

37       1. A RECORD SIGNED BY EITHER:

38       (a) THE INDIVIDUAL.

39       (b) SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION,  
40       ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE INDIVIDUAL IF THE  
41       INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN.

42       2. THE INDIVIDUAL'S WILL, WHETHER OR NOT THE WILL IS ADMITTED TO  
43       PROBATE OR INVALIDATED AFTER THE INDIVIDUAL'S DEATH.

1           3. ANY FORM OF COMMUNICATION MADE BY THE INDIVIDUAL DURING THE  
2 INDIVIDUAL'S TERMINAL ILLNESS OR INJURY THAT IS ADDRESSED TO AT LEAST TWO  
3 ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.

4           B. A RECORD SIGNED PURSUANT TO SUBSECTION A, PARAGRAPH 1, SUBDIVISION  
5 (b) OF THIS SECTION MUST:

6           1. BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A  
7 DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE INDIVIDUAL.

8           2. STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PRESCRIBED IN  
9 PARAGRAPH 1 OF THIS SUBSECTION.

10          C. AN INDIVIDUAL WHO HAS MADE A REFUSAL MAY AMEND OR REVOKE THE  
11 REFUSAL:

12          1. IN THE MANNER PRESCRIBED IN SUBSECTION A OF THIS SECTION FOR MAKING  
13 A REFUSAL.

14          2. BY SUBSEQUENTLY MAKING AN ANATOMICAL GIFT PURSUANT TO SECTION  
15 36-844 THAT IS INCONSISTENT WITH THE REFUSAL.

16          3. BY DESTROYING OR CANCELING THE RECORD EVIDENCING THE REFUSAL, OR  
17 THE PORTION OF THE RECORD USED TO MAKE THE REFUSAL, WITH THE INTENT TO REVOKE  
18 THE REFUSAL.

19          D. EXCEPT AS OTHERWISE PRESCRIBED IN SECTION 36-847, SUBSECTION H, IN  
20 THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE INDIVIDUAL SET FORTH IN  
21 THE REFUSAL, AN INDIVIDUAL'S UNREVOKED REFUSAL TO MAKE AN ANATOMICAL GIFT OF  
22 THE INDIVIDUAL'S BODY OR PART BARS ALL OTHER PERSONS FROM MAKING AN  
23 ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART.

24          36-847. Preclusive effect of anatomical gift, amendment or  
25 revocation

26          A. EXCEPT AS OTHERWISE PRESCRIBED IN SUBSECTIONS G AND H OF THIS  
27 SECTION AND SUBJECT TO THE REQUIREMENTS OF SUBSECTION F OF THIS SECTION, IN  
28 THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR, A PERSON OTHER  
29 THAN THE DONOR IS BARRED FROM MAKING, AMENDING OR REVOKING AN ANATOMICAL GIFT  
30 IF THE DONOR MADE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR AN  
31 AMENDMENT TO AN ANATOMICAL GIFT PURSUANT TO SECTION 36-845.

32          B. A DONOR'S REVOCATION OF AN ANATOMICAL GIFT PURSUANT TO SECTION  
33 36-845 IS NOT A REFUSAL AND DOES NOT BAR ANOTHER PERSON SPECIFIED IN SECTION  
34 36-843 OR 36-848 FROM MAKING AN ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR  
35 36-849.

36          C. IF A PERSON OTHER THAN THE DONOR MAKES AN UNREVOKED ANATOMICAL GIFT  
37 PURSUANT TO SECTION 36-844 OR AN AMENDMENT TO AN ANATOMICAL GIFT PURSUANT TO  
38 SECTION 36-845, ANOTHER PERSON MAY NOT MAKE, AMEND OR REVOKE THE GIFT  
39 PURSUANT TO SECTION 36-849.

40          D. A REVOCATION OF AN ANATOMICAL GIFT PURSUANT TO SECTION 36-845 BY A  
41 PERSON OTHER THAN THE DONOR DOES NOT BAR ANOTHER PERSON FROM MAKING AN  
42 ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR 36-849.

43          E. IN THE ABSENCE OF AN EXPRESS CONTRARY INDICATION BY THE DONOR OR  
44 OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION  
45 36-843, AN ANATOMICAL GIFT OF A PART IS NEITHER A REFUSAL TO GIVE ANOTHER

1 PART NOR A LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF ANOTHER PART AT  
2 A LATER TIME BY THE DONOR OR ANOTHER PERSON.

3 F. IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR OR  
4 OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION  
5 36-843, AN ANATOMICAL GIFT OF A PART FOR ONE OR MORE OF THE PURPOSES  
6 DESCRIBED IN SECTION 36-843 IS NOT A LIMITATION ON THE MAKING OF AN  
7 ANATOMICAL GIFT OF THE PART FOR ANY OF THE OTHER PURPOSES BY THE DONOR OR ANY  
8 OTHER PERSON PURSUANT TO SECTION 36-844 OR 36-849.

9 G. IF A DONOR WHO IS AN UNEMANCIPATED MINOR DIES, A PARENT OF THE  
10 DONOR WHO IS REASONABLY AVAILABLE MAY REVOKE OR AMEND AN ANATOMICAL GIFT.

11 H. IF AN UNEMANCIPATED MINOR WHO SIGNED A REFUSAL DIES, A PARENT OF  
12 THE MINOR WHO IS REASONABLY AVAILABLE MAY REVOKE THE MINOR'S REFUSAL.

13 36-848. Who may make anatomical gift of decedent's body or part

14 A. SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS B AND C OF THIS SECTION,  
15 AND UNLESS BARRED PURSUANT TO SECTION 36-846 OR 36-847, AN ANATOMICAL GIFT  
16 FOR TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION MAY BE MADE BY ANY MEMBER  
17 OF THE FOLLOWING CLASSES OF PERSONS WHO IS REASONABLY AVAILABLE, IN THE ORDER  
18 OF PRIORITY LISTED:

19 1. AN AGENT OF THE DECEDENT AT THE TIME OF DEATH WHO COULD HAVE MADE  
20 AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 IMMEDIATELY BEFORE THE  
21 DECEDENT'S DEATH.

22 2. THE DECEDENT'S SPOUSE.

23 3. THE DECEDENT'S ADULT CHILDREN.

24 4. THE DECEDENT'S PARENTS.

25 5. IF THE DECEDENT IS UNMARRIED, THE DECEDENT'S DOMESTIC PARTNER, IF  
26 ANOTHER PERSON HAD NOT ASSUMED FINANCIAL RESPONSIBILITY FOR THE DECEDENT.

27 6. THE DECEDENT'S ADULT SIBLINGS.

28 7. THE DECEDENT'S ADULT GRANDCHILDREN.

29 8. THE DECEDENT'S GRANDPARENTS.

30 9. AN ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR THE DECEDENT.

31 10. THE PERSONS WHO WERE ACTING AS THE GUARDIANS OF THE PERSON OF THE  
32 DECEDENT AT THE TIME OF DEATH.

33 11. ANY OTHER PERSON WHO HAS THE AUTHORITY TO DISPOSE OF THE DECEDENT'S  
34 BODY.

35 B. IF THERE IS MORE THAN ONE MEMBER OF A CLASS THAT IS LISTED IN  
36 SUBSECTION A, PARAGRAPH 1, 3, 4, 5, 6, 7, 8 OR 10 OF THIS SECTION WHO IS  
37 ENTITLED TO MAKE AN ANATOMICAL GIFT, AN ANATOMICAL GIFT MAY BE MADE BY A  
38 MEMBER OF THE CLASS UNLESS THAT MEMBER OR A PERSON TO WHICH THE GIFT MAY PASS  
39 PURSUANT TO SECTION 36-850 KNOWS OF AN OBJECTION BY ANOTHER MEMBER OF THE  
40 CLASS. IF AN OBJECTION IS KNOWN, THE GIFT MAY BE MADE ONLY BY A MAJORITY OF  
41 THE MEMBERS OF THE CLASS WHO ARE REASONABLY AVAILABLE.

42 C. A PERSON MAY NOT MAKE AN ANATOMICAL GIFT IF, AT THE TIME OF THE  
43 DECEDENT'S DEATH, A PERSON IN A PRIOR CLASS PURSUANT TO SUBSECTION A OF THIS  
44 SECTION IS REASONABLY AVAILABLE TO MAKE OR TO OBJECT TO THE MAKING OF AN  
45 ANATOMICAL GIFT.



1 D. IF THE DECEDENT'S BODY IS NOT WITHIN THE CUSTODY OF THE COUNTY  
2 MEDICAL EXAMINER, THE COUNTY HEALTH OFFICER MAY RELEASE AND PERMIT THE  
3 REMOVAL OF ANY PART FROM THE BODY IN THE COUNTY HEALTH OFFICER'S CUSTODY FOR  
4 TRANSPLANTATION, THERAPY, EDUCATION OR RESEARCH IF THE REQUIREMENTS OF  
5 SECTION 36-861, SUBSECTION A, ARE MET.

6 36-849. Manner of making, amending or revoking anatomical gift  
7 of decedent's body or part

8 A. A PERSON WHO IS AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO  
9 SECTION 36-848 MAY MAKE AN ANATOMICAL GIFT BY A DOCUMENT OF GIFT SIGNED BY  
10 THE PERSON MAKING THE GIFT OR BY THAT PERSON'S ORAL COMMUNICATION THAT IS  
11 ELECTRONICALLY RECORDED OR THAT IS CONTEMPORANEOUSLY REDUCED TO A RECORD AND  
12 THAT IS SIGNED BY THE INDIVIDUAL RECEIVING THE ORAL COMMUNICATION.

13 B. SUBJECT TO THE REQUIREMENTS OF SUBSECTION C OF THIS SECTION, AN  
14 ANATOMICAL GIFT BY A PERSON WHO IS AUTHORIZED PURSUANT TO SECTION 36-848 MAY  
15 BE AMENDED OR REVOKED ORALLY OR IN A RECORD BY ANY MEMBER OF A PRIOR CLASS  
16 WHO IS REASONABLY AVAILABLE. IF MORE THAN ONE MEMBER OF THE PRIOR CLASS IS  
17 REASONABLY AVAILABLE, THE GIFT MADE BY A PERSON AUTHORIZED PURSUANT TO  
18 SECTION 36-848 MAY BE EITHER:

19 1. AMENDED ONLY IF A MAJORITY OF THE REASONABLY AVAILABLE MEMBERS  
20 AGREE TO THE AMENDING OF THE GIFT.

21 2. REVOKED ONLY IF A MAJORITY OF THE REASONABLY AVAILABLE MEMBERS  
22 AGREE TO THE REVOKING OF THE GIFT OR IF THEY ARE EQUALLY DIVIDED AS TO  
23 WHETHER TO REVOKE THE GIFT.

24 C. A REVOCATION PURSUANT TO SUBSECTION B OF THIS SECTION IS EFFECTIVE  
25 ONLY IF, BEFORE AN INCISION HAS BEEN MADE TO REMOVE A PART FROM THE DONOR'S  
26 BODY OR BEFORE INVASIVE PROCEDURES HAVE BEGUN TO PREPARE THE RECIPIENT, THE  
27 PROCUREMENT ORGANIZATION, TRANSPLANT HOSPITAL, PHYSICIAN OR TECHNICIAN KNOWS  
28 OF THE REVOCATION.

29 36-850. Persons who may receive anatomical gifts; purpose of  
30 anatomical gift

31 A. AN ANATOMICAL GIFT MAY BE MADE TO THE FOLLOWING NAMED IN THE  
32 DOCUMENT OF GIFT:

33 1. AN ORGAN PROCUREMENT ORGANIZATION.

34 2. A HOSPITAL, ACCREDITED MEDICAL SCHOOL, DENTAL SCHOOL, COLLEGE,  
35 UNIVERSITY, PROCUREMENT ORGANIZATION OR ANY OTHER APPROPRIATE PERSON, FOR  
36 RESEARCH OR EDUCATION.

37 3. SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION, AN  
38 INDIVIDUAL DESIGNATED BY THE PERSON MAKING THE ANATOMICAL GIFT IF THE  
39 INDIVIDUAL IS THE RECIPIENT OF THE PART.

40 4. AN EYE BANK OR A TISSUE BANK.

41 B. IF AN ANATOMICAL GIFT TO AN INDIVIDUAL PURSUANT TO SUBSECTION A,  
42 PARAGRAPH 3 OF THIS SECTION CANNOT BE TRANSPLANTED INTO THE INDIVIDUAL, THE  
43 PART PASSES PURSUANT TO SUBSECTION G OF THIS SECTION IN THE ABSENCE OF AN  
44 EXPRESS CONTRARY INDICATION BY THE PERSON MAKING THE ANATOMICAL GIFT.

1 C. IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS OR OF ALL PARTS  
2 IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN  
3 SUBSECTION A OF THIS SECTION BUT THAT IDENTIFIES THE PURPOSE FOR WHICH AN  
4 ANATOMICAL GIFT MAY BE USED, THE GIFT PASSES:

5 1. TO THE APPROPRIATE EYE BANK IF THE PART IS AN EYE AND THE GIFT IS  
6 FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY.

7 2. TO THE APPROPRIATE TISSUE BANK IF THE PART IS TISSUE AND THE GIFT  
8 IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY.

9 3. TO THE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN IF  
10 THE PART IS AN ORGAN AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR  
11 THERAPY.

12 4. TO THE APPROPRIATE PROCUREMENT ORGANIZATION IF THE PART IS AN  
13 ORGAN, AN EYE OR TISSUE AND THE GIFT IS FOR THE PURPOSE OF RESEARCH OR  
14 EDUCATION.

15 D. FOR THE PURPOSES OF SUBSECTION C OF THIS SECTION, IF THERE IS MORE  
16 THAN ONE PURPOSE OF AN ANATOMICAL GIFT STATED IN THE DOCUMENT OF GIFT BUT THE  
17 PURPOSES ARE NOT STATED IN ANY PRIORITY, THE GIFT MUST BE USED FOR  
18 TRANSPLANTATION OR THERAPY, IF SUITABLE. IF THE GIFT CANNOT BE USED FOR  
19 TRANSPLANTATION OR THERAPY, THE GIFT MAY BE USED FOR RESEARCH OR EDUCATION.

20 E. IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS IS MADE IN A  
21 DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN SUBSECTION A OF  
22 THIS SECTION AND DOES NOT IDENTIFY THE PURPOSE OF THE GIFT, THE GIFT MAY BE  
23 USED ONLY FOR TRANSPLANTATION OR THERAPY AND THE GIFT PASSES PURSUANT TO  
24 SUBSECTION G OF THIS SECTION.

25 F. IF A DOCUMENT OF GIFT SPECIFIES ONLY A GENERAL INTENT TO MAKE AN  
26 ANATOMICAL GIFT BY WORDS SUCH AS "DONOR", "ORGAN DONOR" OR "BODY DONOR", OR  
27 BY A SYMBOL OR STATEMENT OF SIMILAR IMPORT, THE GIFT MAY BE USED ONLY FOR  
28 TRANSPLANTATION OR THERAPY AND THE GIFT PASSES PURSUANT TO SUBSECTION G OF  
29 THIS SECTION.

30 G. FOR THE PURPOSES OF SUBSECTIONS B, E AND F OF THIS SECTION:

31 1. IF THE PART IS AN EYE, THE GIFT PASSES TO THE APPROPRIATE EYE BANK.

32 2. IF THE PART IS TISSUE, THE GIFT PASSES TO THE APPROPRIATE TISSUE  
33 BANK.

34 3. IF THE PART IS AN ORGAN, THE GIFT PASSES TO THE ORGAN PROCUREMENT  
35 ORGANIZATION AS CUSTODIAN OF THE ORGAN.

36 H. AN ANATOMICAL GIFT OF AN ORGAN FOR TRANSPLANTATION OR THERAPY,  
37 OTHER THAN AN ANATOMICAL GIFT PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS  
38 SECTION, PASSES TO THE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE  
39 ORGAN.

40 I. IF AN ANATOMICAL GIFT DOES NOT PASS PURSUANT TO SUBSECTION A, B, C,  
41 D, E, F, G OR H OF THIS SECTION OR THE DECEDENT'S BODY OR PART IS NOT USED  
42 FOR TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION, CUSTODY OF THE BODY OR  
43 PART PASSES TO THE PERSON WHO IS UNDER AN OBLIGATION TO DISPOSE OF THE BODY  
44 OR PART PURSUANT TO SECTION 36-831.

1 J. A PERSON MAY NOT ACCEPT AN ANATOMICAL GIFT IF THE PERSON KNOWS THAT  
2 THE GIFT WAS NOT EFFECTIVELY MADE PURSUANT TO SECTION 36-844 OR 36-849 OR IF  
3 THE PERSON KNOWS THAT THE DECEDENT MADE A REFUSAL PURSUANT TO SECTION 36-846  
4 THAT WAS NOT REVOKED. FOR THE PURPOSES OF THIS SUBSECTION, IF A PERSON KNOWS  
5 THAT AN ANATOMICAL GIFT WAS MADE IN A DOCUMENT OF GIFT, THE PERSON IS DEEMED  
6 TO KNOW OF ANY AMENDMENT OF THE GIFT, REVOCATION OF THE GIFT OR REFUSAL TO  
7 MAKE AN ANATOMICAL GIFT IN THE SAME DOCUMENT OF GIFT.

8 K. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION A, PARAGRAPH 3 OF THIS  
9 SECTION, THIS ARTICLE DOES NOT AFFECT THE ALLOCATION OF ORGANS FOR  
10 TRANSPLANTATION OR THERAPY.

11 36-851. Search and notification; immunity

12 A. THE FOLLOWING SHALL MAKE A REASONABLE SEARCH OF AN INDIVIDUAL WHOM  
13 THE PERSON REASONABLY BELIEVES IS DEAD OR NEAR DEATH FOR A DOCUMENT OF GIFT  
14 OR OTHER INFORMATION IDENTIFYING THE INDIVIDUAL AS A DONOR OR AS AN  
15 INDIVIDUAL WHO MADE A REFUSAL:

16 1. A PARAMEDIC OR OTHER EMERGENCY RESCUER FINDING THE INDIVIDUAL.

17 2. IF NO OTHER SOURCE OF THE INFORMATION IS IMMEDIATELY AVAILABLE, A  
18 HOSPITAL, AS SOON AS PRACTICAL AFTER THE INDIVIDUAL'S ARRIVAL AT THE  
19 HOSPITAL.

20 B. IF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT IS  
21 LOCATED BY THE SEARCH REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 1 AND THE  
22 INDIVIDUAL OR DECEASED INDIVIDUAL TO WHOM IT RELATES IS TAKEN TO A HOSPITAL,  
23 THE PERSON RESPONSIBLE FOR CONDUCTING THE SEARCH SHALL SEND THE DOCUMENT OF  
24 GIFT OR REFUSAL TO THE HOSPITAL.

25 C. A PERSON IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY FOR FAILING  
26 TO DISCHARGE THE DUTIES IMPOSED BY THIS SECTION BUT MAY BE SUBJECT TO  
27 ADMINISTRATIVE SANCTIONS.

28 36-852. Delivery of document of gift not required; right to  
29 examine

30 A. A DOCUMENT OF GIFT NEED NOT BE DELIVERED DURING THE DONOR'S  
31 LIFETIME TO BE EFFECTIVE.

32 B. ON OR AFTER AN INDIVIDUAL'S DEATH, A PERSON IN POSSESSION OF A  
33 DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT WITH RESPECT TO THE  
34 INDIVIDUAL SHALL ALLOW EXAMINATION AND COPYING OF THE DOCUMENT OF GIFT OR  
35 REFUSAL BY A PERSON AUTHORIZED TO MAKE OR OBJECT TO THE MAKING OF AN  
36 ANATOMICAL GIFT WITH RESPECT TO THE INDIVIDUAL OR BY A PERSON TO WHICH THE  
37 GIFT COULD PASS PURSUANT TO SECTION 36-850.

38 36-853. Rights and duties of procurement organizations and  
39 others

40 A. WHEN A HOSPITAL REFERS AN INDIVIDUAL AT OR NEAR DEATH TO AN ORGAN  
41 PROCUREMENT ORGANIZATION, THE ORGANIZATION SHALL MAKE A REASONABLE SEARCH OF  
42 THE RECORDS OF ANY DONOR REGISTRY THAT IT KNOWS EXISTS FOR THE GEOGRAPHICAL  
43 AREA IN WHICH THE INDIVIDUAL RESIDES TO DETERMINE IF THE INDIVIDUAL HAS MADE  
44 AN ANATOMICAL GIFT.

1           B. A PROCUREMENT ORGANIZATION MUST BE ALLOWED REASONABLE ACCESS TO  
2 INFORMATION IN THE RECORDS OF THE DONOR REGISTRY TO DETERMINE IF AN  
3 INDIVIDUAL AT OR NEAR DEATH IS A DONOR.

4           C. WHEN A HOSPITAL REFERS AN INDIVIDUAL AT OR NEAR DEATH TO AN ORGAN  
5 PROCUREMENT ORGANIZATION, THE ORGAN PROCUREMENT ORGANIZATION OR THE  
6 APPROPRIATE EYE BANK OR TISSUE BANK MAY CONDUCT ANY REASONABLE EXAMINATION  
7 NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART THAT IS OR COULD BE THE  
8 SUBJECT OF AN ANATOMICAL GIFT FOR TRANSPLANTATION, THERAPY, RESEARCH OR  
9 EDUCATION FROM A DONOR OR A PROSPECTIVE DONOR. DURING THE EXAMINATION  
10 PERIOD, MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE PART MAY  
11 NOT BE WITHDRAWN UNLESS THE HOSPITAL OR PROCUREMENT ORGANIZATION KNOWS THAT  
12 THE INDIVIDUAL EXPRESSED A CONTRARY INTENT.

13           D. UNLESS OTHERWISE PROHIBITED BY LAW, AT ANY TIME AFTER A DONOR'S  
14 DEATH, THE PERSON TO WHICH A PART PASSES PURSUANT TO SECTION 36-850 MAY  
15 CONDUCT ANY REASONABLE EXAMINATION NECESSARY TO ENSURE THE MEDICAL  
16 SUITABILITY OF THE BODY OR PART FOR ITS INTENDED PURPOSE.

17           E. UNLESS OTHERWISE PROHIBITED BY LAW, AN EXAMINATION PURSUANT TO  
18 SUBSECTION C OR D OF THIS SECTION MAY INCLUDE AN EXAMINATION OF ALL MEDICAL  
19 AND DENTAL RECORDS OF THE DONOR OR PROSPECTIVE DONOR.

20           F. ON THE DEATH OF A MINOR WHO WAS A DONOR OR WHO HAD SIGNED A  
21 REFUSAL, UNLESS A PROCUREMENT ORGANIZATION KNOWS THE MINOR IS EMANCIPATED,  
22 THE APPROPRIATE PROCUREMENT ORGANIZATION SHALL CONDUCT A REASONABLE SEARCH  
23 FOR THE PARENTS OF THE MINOR AND PROVIDE THE PARENTS WITH AN OPPORTUNITY TO  
24 REVOKE OR AMEND THE ANATOMICAL GIFT OR REVOKE THE REFUSAL.

25           G. ON REFERRAL BY A HOSPITAL PURSUANT TO SUBSECTION A OF THIS SECTION,  
26 THE APPROPRIATE PROCUREMENT ORGANIZATION MUST MAKE A REASONABLE SEARCH FOR  
27 ANY PERSON LISTED IN SECTION 36-848 WHO HAS PRIORITY TO MAKE AN ANATOMICAL  
28 GIFT ON BEHALF OF A PROSPECTIVE DONOR. IF A PROCUREMENT ORGANIZATION  
29 RECEIVES INFORMATION THAT AN ANATOMICAL GIFT TO ANY OTHER PERSON WAS MADE,  
30 AMENDED OR REVOKED, IT SHALL PROMPTLY ADVISE THE OTHER PERSON OF ALL RELEVANT  
31 INFORMATION.

32           H. SUBJECT TO THE REQUIREMENTS OF SECTION 36-850, SUBSECTION I AND  
33 SECTION 36-862, THE RIGHTS OF THE PERSON TO WHICH A PART PASSES PURSUANT TO  
34 SECTION 36-850 ARE SUPERIOR TO THE RIGHTS OF ALL OTHERS WITH RESPECT TO THE  
35 PART. THE PERSON MAY ACCEPT OR REJECT AN ANATOMICAL GIFT IN WHOLE OR IN  
36 PART. SUBJECT TO THE TERMS OF THE DOCUMENT OF GIFT AND THIS ARTICLE, A  
37 PERSON WHO ACCEPTS AN ANATOMICAL GIFT OF AN ENTIRE BODY MAY ALLOW EMBALMING,  
38 BURIAL OR CREMATION AND USE OF REMAINS IN A FUNERAL SERVICE. IF THE GIFT IS  
39 OF A PART, THE PERSON TO WHICH THE PART PASSES PURSUANT TO SECTION 36-850, ON  
40 THE DEATH OF THE DONOR AND BEFORE EMBALMING, BURIAL OR CREMATION, SHALL CAUSE  
41 THE PART TO BE REMOVED WITHOUT UNNECESSARY MUTILATION.

42           I. THE PHYSICIAN WHO ATTENDS THE DECEDENT AT DEATH AND THE PHYSICIAN  
43 WHO DETERMINES THE TIME OF THE DECEDENT'S DEATH MAY NOT PARTICIPATE IN THE  
44 PROCEDURES FOR REMOVING OR TRANSPLANTING A PART FROM THE DECEDENT.

1 J. A PHYSICIAN OR TECHNICIAN MAY REMOVE A DONATED PART FROM THE BODY  
2 OF A DONOR THAT THE PHYSICIAN OR TECHNICIAN IS QUALIFIED TO REMOVE.

3 36-854. Coordination of procurement and use

4 A. EACH HOSPITAL IN THIS STATE SHALL ENTER INTO ONE OR MORE AGREEMENTS  
5 OR AFFILIATIONS WITH PROCUREMENT ORGANIZATIONS FOR COORDINATION OF  
6 PROCUREMENT AND USE OF ANATOMICAL GIFTS.

7 B. IF THERE HAS BEEN AN ANATOMICAL GIFT, THE INSTITUTION WHERE THE  
8 REMOVAL OF ANY DONATED PARTS OCCURS SHALL NOTIFY THE FUNERAL DIRECTOR OR THE  
9 PERSON ACTING IN THAT CAPACITY WHO FIRST ASSUMES CUSTODY OF THE BODY ABOUT  
10 THE REMOVAL OF THE BODY PARTS.

11 36-855. Sale or purchase of parts; classification

12 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B, A PERSON WHO FOR  
13 VALUABLE CONSIDERATION KNOWINGLY PURCHASES OR SELLS A PART FOR  
14 TRANSPLANTATION OR THERAPY, IF REMOVAL OF A PART FROM AN INDIVIDUAL IS  
15 INTENDED TO OCCUR AFTER THE INDIVIDUAL'S DEATH, IS GUILTY OF A CLASS 3  
16 FELONY.

17 B. THIS SECTION DOES NOT PREVENT A PERSON FROM CHARGING A REASONABLE  
18 AMOUNT FOR THE REMOVAL, PROCESSING, PRESERVATION, QUALITY CONTROL, STORAGE,  
19 TRANSPORTATION, IMPLANTATION OR DISPOSAL OF A PART.

20 36-856. Prohibited acts; classification

21 A PERSON WHO, IN ORDER TO OBTAIN A FINANCIAL GAIN, INTENTIONALLY  
22 FALSIFIES, FORGES, CONCEALS, DEFACES OR OBLITERATES A DOCUMENT OF GIFT, AN  
23 AMENDMENT OR REVOCATION OF A DOCUMENT OF GIFT OR A REFUSAL OF GIFT IS GUILTY  
24 OF A CLASS 6 FELONY.

25 36-857. Immunity

26 A. A PERSON IS NOT SUBJECT TO CIVIL LIABILITY, CRIMINAL PROSECUTION OR  
27 ADMINISTRATIVE PROCEEDINGS FOR GOOD FAITH ACTS OR OMISSIONS RELATED TO  
28 PROCUREMENT OF PARTS IN COMPLIANCE WITH THIS ARTICLE. ALL ACTS AND OMISSIONS  
29 ARE PRESUMED TO BE IN GOOD FAITH UNLESS THE ACTS OR OMISSIONS ARE DONE WITH  
30 INTENT TO MALICIOUSLY CAUSE INJURY.

31 B. A PERSON WHO MAKES AN ANATOMICAL GIFT AND THE DONOR'S ESTATE ARE  
32 NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY FOR ANY INJURY OR DAMAGE THAT  
33 RESULTS FROM THE MAKING OR USE OF THE GIFT.

34 C. IN DETERMINING WHETHER AN ANATOMICAL GIFT HAS BEEN MADE, AMENDED OR  
35 REVOKED PURSUANT TO THIS ARTICLE, A PERSON MAY RELY ON REPRESENTATIONS OF AN  
36 INDIVIDUAL LISTED PURSUANT TO SECTION 36-848, SUBSECTION A, PARAGRAPH 2, 3,  
37 4, 5, 6, 7 OR 8 RELATING TO THE INDIVIDUAL'S RELATIONSHIP TO THE DONOR OR  
38 PROSPECTIVE DONOR UNLESS THE PERSON KNOWS THAT THE REPRESENTATION IS UNTRUE.

39 36-858. Choice of law; presumption of validity

40 A. A DOCUMENT OF GIFT IS VALID IF EXECUTED IN ACCORDANCE WITH:

41 1. THIS ARTICLE.

42 2. THE LAWS OF THE STATE OR COUNTRY WHERE IT WAS EXECUTED.

43 3. THE LAWS OF THE STATE OR COUNTRY WHERE THE PERSON MAKING THE  
44 ANATOMICAL GIFT WAS DOMICILED, HAS A PLACE OF RESIDENCE OR WAS A NATIONAL AT  
45 THE TIME THE DOCUMENT OF GIFT WAS EXECUTED.

1 B. IF A DOCUMENT OF GIFT IS VALID UNDER THIS SECTION, THE LAWS OF THIS  
2 STATE GOVERN THE INTERPRETATION OF THE DOCUMENT OF GIFT.

3 C. A PERSON MAY PRESUME THAT A DOCUMENT OF GIFT OR AMENDMENT OF AN  
4 ANATOMICAL GIFT IS VALID UNLESS THAT PERSON KNOWS THAT IT WAS NOT VALIDLY  
5 EXECUTED OR WAS REVOKED.

6 36-859. Donor registry

7 A. AN ORGAN PROCUREMENT ORGANIZATION SHALL ESTABLISH A DONOR REGISTRY  
8 IN THIS STATE.

9 B. THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF TRANSPORTATION  
10 SHALL COOPERATE WITH THE ORGAN PROCUREMENT ORGANIZATION THAT ADMINISTERS A  
11 DONOR REGISTRY TO TRANSFER TO THE DONOR REGISTRY ALL RELEVANT INFORMATION  
12 REGARDING A DONOR'S MAKING OF AN ANATOMICAL GIFT.

13 C. A DONOR REGISTRY MUST:

14 1. ALLOW A DONOR OR OTHER PERSON AUTHORIZED PURSUANT TO SECTION 36-843  
15 TO INCLUDE ON THE DONOR REGISTRY A STATEMENT OR SYMBOL THAT THE ANATOMICAL  
16 GIFT WAS MADE BY THE DONOR.

17 2. BE ACCESSIBLE TO A PROCUREMENT ORGANIZATION TO ALLOW IT TO OBTAIN  
18 RELEVANT INFORMATION ON THE DONOR REGISTRY TO DETERMINE, AT OR NEAR DEATH OF  
19 THE DONOR OR A PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS  
20 MADE AN ANATOMICAL GIFT.

21 3. BE ACCESSIBLE SEVEN DAYS A WEEK ON A TWENTY-FOUR HOUR BASIS FOR  
22 PURPOSES OF PARAGRAPHS 1 AND 2.

23 D. PERSONALLY IDENTIFIABLE INFORMATION ON A DONOR REGISTRY ABOUT A  
24 DONOR OR PROSPECTIVE DONOR MAY NOT BE USED OR DISCLOSED WITHOUT THE EXPRESS  
25 CONSENT OF THE DONOR, PROSPECTIVE DONOR OR PERSON WHO MADE THE ANATOMICAL  
26 GIFT FOR ANY PURPOSE OTHER THAN TO DETERMINE, AT OR NEAR DEATH OF THE DONOR  
27 OR PROSPECTIVE DONOR, IF THE DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED OR  
28 REVOKED AN ANATOMICAL GIFT.

29 E. THIS SECTION DOES NOT PROHIBIT ANY PERSON FROM ESTABLISHING OR  
30 MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT  
31 WITH THIS STATE. ANY SUCH REGISTRY MUST COMPLY WITH THE REQUIREMENTS OF  
32 SUBSECTIONS C AND D OF THIS SECTION.

33 36-860. Effect of anatomical gift on advance health care  
34 directive; definitions

35 A. IF THE TERMS OF A PROSPECTIVE DONOR'S DECLARATION OR ADVANCE HEALTH  
36 CARE DIRECTIVE AND THE EXPRESS OR IMPLIED TERMS OF AN ANATOMICAL GIFT MADE BY  
37 THE PROSPECTIVE DONOR, OR MADE BY ANY OTHER PERSON, APPEAR TO BE IN CONFLICT  
38 WITH REGARD TO THE ADMINISTRATION OF MEASURES NECESSARY TO ENSURE THE MEDICAL  
39 SUITABILITY OF A PART FOR TRANSPLANTATION OR THERAPY, APPROPRIATE  
40 CONSULTATION SHALL OCCUR TO DETERMINE THE PROSPECTIVE DONOR'S ACTUAL OR  
41 LIKELY INTENT IN RESOLVING THAT CONFLICT. RESOLUTION OF THE CONFLICT SHALL  
42 OCCUR AS EXPEDITIOUSLY AS POSSIBLE. IF THE PROSPECTIVE DONOR IS UNABLE TO  
43 RESOLVE THE CONFLICT, ANOTHER PERSON AUTHORIZED BY LAW TO MAKE HEALTH CARE  
44 DECISIONS ON BEHALF OF THE PROSPECTIVE DONOR SHALL RESOLVE THE CONFLICT.  
45 BEFORE RESOLUTION OF THE CONFLICT, MEASURES NECESSARY TO ENSURE THE MEDICAL

1 SUITABILITY OF THE PART MAY NOT BE WITHHELD OR WITHDRAWN FROM THE PROSPECTIVE  
2 DONOR IF WITHHOLDING OR WITHDRAWING OF THE MEASURES ARE NOT CONTRAINDICATED  
3 BY APPROPRIATE END OF LIFE CARE.

4 B. FOR THE PURPOSES OF SUBSECTION A OF THIS SECTION, APPROPRIATE  
5 CONSULTATION MUST INCLUDE THE PROSPECTIVE DONOR'S ATTENDING PHYSICIAN, THE  
6 HOSPITAL'S ETHICS COMMITTEE OR, IF NONE, A DESIGNATED REPRESENTATIVE OF THE  
7 HOSPITAL, AND THE AGENT ACTING UNDER THE PROSPECTIVE DONOR'S ADVANCE HEALTH  
8 CARE DIRECTIVE OR, IF NONE, ANY OTHER INDIVIDUAL AUTHORIZED BY LAW TO MAKE  
9 HEALTH CARE DECISIONS ON BEHALF OF THE PROSPECTIVE DONOR AND MAY INCLUDE THE  
10 APPROPRIATE PROCUREMENT ORGANIZATION AND ANY OTHER PERSON AUTHORIZED TO MAKE  
11 AN ANATOMICAL GIFT PURSUANT TO SECTION 36-848. IF THE APPROPRIATE  
12 CONSULTATION DOES NOT RESOLVE THE CONFLICT, THE AGENT ACTING UNDER THE  
13 PROSPECTIVE DONOR'S ADVANCE HEALTH CARE DIRECTIVE OR, IF NONE, ANY OTHER  
14 INDIVIDUAL AUTHORIZED BY LAW TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE  
15 PROSPECTIVE DONOR, OR THE MAJORITY OF SUCH INDIVIDUALS, IS EMPOWERED TO MAKE  
16 THE FINAL DECISION OF HOW TO PROCEED.

17 C. FOR THE PURPOSES OF THIS SECTION:

18 1. "ADVANCE HEALTH CARE DIRECTIVE" MEANS A POWER OF ATTORNEY FOR  
19 HEALTH CARE OR A RECORD SIGNED BY A PROSPECTIVE DONOR CONTAINING THE  
20 PROSPECTIVE DONOR'S DIRECTION CONCERNING A HEALTH CARE DECISION FOR THE  
21 PROSPECTIVE DONOR.

22 2. "DECLARATION" MEANS A RECORD SIGNED BY A PROSPECTIVE DONOR  
23 SPECIFYING THE CIRCUMSTANCES UNDER WHICH A LIFE SUPPORT SYSTEM MAY BE  
24 WITHHELD OR WITHDRAWN FROM THE PROSPECTIVE DONOR.

25 3. "HEALTH CARE DECISION" MEANS ANY DECISION MADE REGARDING THE HEALTH  
26 CARE OF THE PROSPECTIVE DONOR.

27 36-861. County medical examiners: authorization

28 A. THE MEDICAL EXAMINER OR INDIVIDUAL LEGALLY DELEGATED THAT AUTHORITY  
29 MAY RELEASE AND PERMIT THE REMOVAL OF A PART FROM OR ALL OF A BODY WITHIN THE  
30 CUSTODY OF THAT OFFICIAL FOR TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION  
31 PURSUANT TO TITLE 11, CHAPTER 3, ARTICLE 12 IF THE PART IS THE SUBJECT OF AN  
32 ANATOMICAL GIFT AND:

33 1. A REQUEST HAS BEEN RECEIVED FROM A PROCUREMENT ORGANIZATION.

34 2. THE ORGAN PROCUREMENT ORGANIZATION HAS MADE A REASONABLE EFFORT,  
35 TAKING INTO ACCOUNT THE USEFUL LIFE OF THE PART, TO LOCATE AND EXAMINE THE  
36 DECEDENT'S MEDICAL RECORDS AND, IF THE DECEDENT HAS NOT EXECUTED A DOCUMENT  
37 OF GIFT OR HAS NOT REFUSED TO MAKE AN ANATOMICAL GIFT, INFORM PERSONS LISTED  
38 IN SECTION 36-848, SUBSECTION A, OF THE PERSON'S OPTION TO MAKE OR OBJECT TO  
39 MAKING AN ANATOMICAL GIFT.

40 3. THE OFFICIAL DOES NOT KNOW OF A REFUSAL BY THE DECEDENT OR AN  
41 OBJECTION BY A PERSON HAVING PRIORITY TO ACT AS LISTED IN SECTION 36-848,  
42 SUBSECTION A.

43 4. THE REMOVAL WILL BE BY A PHYSICIAN, SURGEON OR TRAINED TECHNICIAN.

44 5. THE REMOVAL WILL BE IN ACCORDANCE WITH ACCEPTED MEDICAL STANDARDS.

45 6. THE REMOVAL WILL NOT INTERFERE WITH ANY DEATH INVESTIGATION.

1           7. COSMETIC RESTORATION WILL BE DONE, IF APPROPRIATE.

2           B. AN OFFICIAL WHO RELEASES AND PERMITS THE REMOVAL OF A PART SHALL  
3 MAINTAIN A PERMANENT RECORD OF THE NAME OF THE DECEDENT, THE PERSON MAKING  
4 THE REQUEST, THE DATE AND PURPOSE OF THE REQUEST, THE PART REQUESTED AND THE  
5 PERSON TO WHOM IT WAS RELEASED.

6           36-862. Medical examiner: release of information

7           A. THE COUNTY MEDICAL EXAMINER OR INDIVIDUAL LEGALLY DELEGATED THAT  
8 AUTHORITY SHALL RELEASE THE NAME, CONTACT INFORMATION AND AVAILABLE MEDICAL  
9 AND SOCIAL HISTORY OF A DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE  
10 MEDICAL EXAMINER TO:

11           1. THE DESIGNATED DONEE OF AN ANATOMICAL GIFT EXECUTED PURSUANT TO  
12 SECTION 36-844.

13           2. ANY PROCUREMENT ORGANIZATION UNDER PROCEDURES ADOPTED BY THE  
14 MEDICAL EXAMINER FOR COORDINATION OF THE PROCUREMENT OF ANATOMICAL GIFTS.

15           B. IF THE DECEDENT'S BODY OR PART IS MEDICALLY SUITABLE FOR  
16 TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION, THE MEDICAL EXAMINER, OR  
17 INDIVIDUAL LEGALLY DELEGATED THAT AUTHORITY SHALL RELEASE POSTMORTEM  
18 EXAMINATION RESULTS TO A PROCUREMENT ORGANIZATION. THE PROCUREMENT  
19 ORGANIZATION MAY MAKE A SUBSEQUENT DISCLOSURE OF THE POSTMORTEM EXAMINATION  
20 RESULTS OR OTHER INFORMATION RECEIVED FROM THE MEDICAL EXAMINER ONLY IF  
21 RELEVANT TO TRANSPLANTATION OR THERAPY.

22           36-863. Uniformity of application and construction

23           IN APPLYING AND CONSTRUING THIS ARTICLE, CONSIDERATION MUST BE GIVEN TO  
24 THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER  
25 AMONG STATES THAT ENACT IT.

26           36-864. Relation to electronic signatures in global and  
27 national commerce act

28           THIS ACT MODIFIES, LIMITS AND SUPERSEDES THE ELECTRONIC SIGNATURES IN  
29 GLOBAL AND NATIONAL COMMERCE ACT, BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE  
30 SECTION 101(a) OF THAT ACT (15 UNITED STATES CODE SECTION 7001) OR AUTHORIZE  
31 ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(b) OF THAT  
32 ACT (15 UNITED STATES CODE SECTION 7003(b)).

33           Sec. 4. Transfer of records

34           The donor registry records containing information regarding persons who  
35 have executed a document of gift pursuant to section 36-842.01, Arizona  
36 Revised Statutes, as repealed by this act, are transferred to an organ  
37 procurement organization that is located in this state, meets the  
38 requirements of section 371 of the Public Health Service Act, 42 United  
39 States Code, section 273, and which maintains a donor registry established  
40 pursuant to section 36-859, Arizona Revised Statutes, as added by this act.

41           Sec. 5. Short title

42           Title 36, chapter 7, article 3, Arizona Revised Statutes, as added by  
43 this act, may be cited as the "Revised Uniform Anatomical Gift Act".